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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,834	10/30/2003	E. Michael Ackley JR.	4389-3	7198
23117	7590	09/26/2005		
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER YAN, REN LUO	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,834

Applicant(s)

ACKLEY ET AL.

Examiner

Ren L. Yan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-118 is/are pending in the application.
- 4a) Of the above claim(s) 81-100, 106 and 108-113 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 76-78, 80, 101, 102, 107, 114, 115 and 117 is/are rejected.
- 7) ☒ Claim(s) 79, 103-105, 116 and 118 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/30/03, 3/11/04, 7/25/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election with traverse of invention Group II with claims 76-80 and 101-105 in the reply filed on 7-25-2005 is acknowledged. The traversal is on the ground(s) that newly added independent claim 106 constitutes a means for practicing the process of claim 76 and therefore must be examined according to MPEP 806.05(e). This is not found persuasive because the newly added independent claim 106 is not directed to a "means" for practicing the process of claim 76 and does not make any reference to the process claim 76. Therefore, claim 106 is not considered as a linking claim under the provision of MPEP 806.05(e). Additionally, applicant's statement that new claims 106-118 are method claims which depend from independent claim 76, either directly or indirectly is erroneous. First of all, new claim 106 is an independent apparatus claim and is not a method claim or a dependent claim of claim 76 as stated. Further more, new claims 108-113 are dependent claims of non-elected independent claim 59. Accordingly, only newly added claims 107 and 114-118 are examined together with elected claims 76-80 and 101-105.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 76-78 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al((6,267,997).

WO 91/01884 teaches the method for forming a registered image on a non-planar printing surface of shaped tablet pieces 10 as claimed including printing with a first offset printer station 35 at a first position along a transport path that forms a first component image on the shaped tablet pieces while in the predetermined position, printing with a second printer station 41(laser marking system 41) downstream from the first printer station a second component of the composite image on the shaped tablet pieces 10 in registration with the first component image of the composite image, moving a transport surface 22 with a plurality of transport recess portions for holding the shaped tablet pieces from a first printer station to a second printer station, positioning the shaped tablet pieces via a vacuum hole 29 positioned within and at the deepest portion of the transport recess portion for holding the edible piece 10 laterally, longitudinally and rotationally within the transport recess at a predetermined position between the first and second printer stations, wherein the shaped tablet pieces protrudes above the transport surface, and applying a pressure differential via a vacuum pump to supply vacuum to the vacuum hole 29 to maintain the shaped tablet pieces in the predetermined position within the recess while the tablet pieces are at and between the first and second printer stations such that multiple printing operations can be performed in proper registration on the tablet pieces. See Figs. 1-3 and pages 8 and 9 of WO 91/01884 for details. It should be pointed out that laser marking (engraving or etching) is a form of printing well accepted in the printing art. However, in the event that the first and second component of the composite image being printed on the tablet piece should be interpreted to be of two different colored ink, the patent to Ream et al is applied to teach the

conventionality of printing on edible pieces a composite image formed with first and second components of colored ink in proper registration by first and second printers 32. See Figs. 10, 11, column 5, lines 12-15 and column 8, lines 46-59 in Ream et al for example. It would have been obvious to one of ordinary skill in the art to provide the printing method of WO 91/01884 with a second color ink printing device appropriately disposed as taught by Ream et al in order to form a multicolor ink composite image on the tablet piece.

Claims 101 and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 76 above, and further in view of Matsuoka(4,619,196). WO 91/01884, as modified by Ream et al, teach all that is claimed except that it does not show the use of multiple vacuum holes in each transport recess portion and does not position the vacuum hole asymmetrically in the transport recess as recited. The patent to Matsuoka teaches in a tablet printing device the conventionality of providing two vacuum holes in a transport pocket for holding the tablet and each of the vacuum holes is positioned asymmetrically in the pocket. See Fig. 4 in Matsuoka for example. It would have been obvious to those having ordinary skill in the art to provide the printing method of WO 91/01884, as modified by Ream et al with two vacuum holes in each transport pocket and to position each vacuum hole asymmetrically in each pocket in order to more firmly hold the tablet in its desired position during printing and transporting operations.

Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 76 above, and further in view of Ackley(4,905,589). WO 91/01884, as modified by Ream et al, teach all that is claimed except that it does not show the use of a plurality of carrier bars to form an endless loop defining at least one inclined ramp

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section, and a feed hopper is positioned along the inclined ramp section. The patent to Ackley teaches in a tablet printing device that it is conventional to use a plurality of carrier bars to form an endless loop defining an inclined ramp and a feed hopper is positioned along the inclined ramp section so as to effectively supply and discharge the tablets during the printing operation. See Figs. 1 and 2 in Ackley for example. It would have been obvious to those having ordinary skill in the art to provide the printing method of WO 91/01884, as modified by Ream et al with the carrier bar and hopper appropriately disposed as taught by Ackley in order to obtain the above stated advantage.

Claims 114, 115 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 91/01884 in view of Ream et al as applied to claim 76 above, and further in view of Yamamoto et al(5,423,252). WO 91/01884, as modified by Ream et al, teach all that is claimed except that it does not show a vacuum plenum system as recited. Yamamoto et al teach a printer for printing on tablets and capsules the conventional use of a vacuum plenum system associated with the printing unit and disposed between the transport recesses to be in communication with a vacuum pump 133. See Figs. 1 and 2 in Yamamoto et al for example. It would have been obvious to those having ordinary skill in the art to provide the printing method of WO 91/01884, as modified by Ream et al, with a vacuum plenum system appropriately disposed as taught by Yamamoto et al in order to facilitate maintaining the tablet pieces in position during the tablets transporting and printing operations.

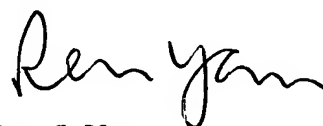
Claims 79, 103-105, 116 and 118 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ren L. Yan whose telephone number is 571-272-2173. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 571-272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ren L Yan
Primary Examiner
Art Unit 2854

Ren Yan
Sept. 20, 2005